



Montgomery
218 Commerce Street
P.O. Box 4160
Montgomery, AL 36103-4160

Atlanta
4200 Northside Parkway
Building One, Suite 100
Atlanta, GA 30327

(800) 898-2034
BeasleyAllen.com



P. Leigh O'Dell
leigh.odell@beasleyallen.com

Michelle A. Parfitt
mparfitt@ashcraftlaw.com

July 3, 2024

Honorable Rukhsanah L. Singh, U.S. Magistrate Judge
United States District Court- District of NJ
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Court Room 7W
Trenton, NJ 08608

***Re: In re: Johnson & Johnson Talcum Powder Products
Marketing, Sales Practices and Products Liability Litigation -
MDL 2738***

Dear Magistrate Judge Singh:

Pursuant to the Court's request for bi-monthly reports, the parties jointly offer the following update on recent activities in the MDL. In light of the holiday, we are submitting this on July 3, 2024.

Expert Disclosures and Discovery:

- Depositions of the Plaintiffs' experts have been completed.
- In accordance with the Court's order, Defendants served expert reports on May 28, 2024. The depositions of Drs. Sutcliffe, Holcomb, Nony, Longacre, Permuth, Merlo Diette, Osann, Sanchez, Saenz, Finan, Wiley and DiFeo have been completed. The depositions of the remaining defense experts are scheduled during the first two weeks of July and include Drs. Boyd, Su, and Punjabi.
- On April 18, 2024, Defendants requested another deposition of Plaintiffs' expert Dr. Saed on the basis that Plaintiffs' other experts rely on multiple publications by Dr. Saed since his last deposition. Plaintiffs have withdrawn

Dr. Saed as a Plaintiffs' expert and object to an additional deposition. Defendants will seek leave from the Court to file a Motion to Compel Dr. Saed's deposition.

- On May 10, 2024, Defendants served a new set of requests for production concerning a new publication by Dr. Saed regarding talcum powder and ovarian cancer. Plaintiffs have advised Defendants that the withdrawal of Dr. Saed as an expert makes further requests and productions moot. Defendants object to Plaintiffs' refusal to respond to the discovery request and will seek leave from the Court to file a Motion to Compel production.

Plaintiffs' Subpoena to Public Library of Science (PLOS):

- On March 20, 2024, the PSC served the Public Library of Science (PLOS) with a subpoena for information related to a manuscript submitted by Plaintiffs' expert Dr. Saed to PLOS in 2020.
- On April 12, 2024, Counsel for PLOS served an objection to the subpoena claiming privilege and confidentiality and attaching to the objection a Privilege Log on counsel for the Plaintiffs.

Defendants' Motion to Compel Inspection of Dr. William Longo's Laboratory (Dkt. 3227)

- On June 17, 2024, Special Master Schneider denied Defendants' Motion to Compel the Inspection of Dr. William Longo's Laboratory (ECF 32826). Defendants filed an objection to the Special Master's Order on July 1, 2024 (ECF 32872).

Notice of Subpoena to Paul Hess:

- Defendants filed an Amended Notice of Intent to Serve Subpoena on Paul Hess on April 23, 2024 (ECF 32037). The subpoena is for a videotaped deposition of Mr. Hess, a non-party and employee of Plaintiffs' expert, Dr. William Longo.

- The parties have agreed to conduct the deposition of Mr. Hess on July 10, 2024.

Subpoenas to Beasley Allen Law Firm, Smith Law Firm, and Ellington Management Group:

- On May 20 and 21, 2024, Defendants filed Notices of Intent to Serve Subpoena on the Beasley Allen Law Firm (ECF 32201), Ellington Management Group (ECF 32215), and the Smith Law Firm (ECF 32226). On May 30, 2024, the Plaintiffs' Steering Committee filed a Motion to Quash or for Protective Order regarding these subpoenas (ECF 32483). Also on May 30, 2024, the Beasley Allen Law Firm separately filed a Motion to Quash and/or for Protective Order concerning the subpoena directed to the Beasley Allen Law Firm (ECF 32445). On June 3, 2024, Allen Smith and the Smith Law Firm filed a Motion to Quash the Subpoena directed to them (ECF 32603). Defendants filed one opposition to all three motions on June 17, 2024 (ECF 32827). Non-Party Beasley Allen served their Reply Brief on June 24, 2024 (ECF 32858). All three motions were heard on July 1, 2024 in a hearing conducted by Special Master Schneider.

Plaintiffs' Subpoena to Analysis Group LLC:

- On June 11, 2024, the PSC served Analysis Group LLC with a subpoena for information related to Defendants' expert Dr. Kathleen Sutcliffe and her work on this litigation. The Defendants view the subpoena as overbroad, raising issues of financial disclosures for all experts in the MDL. The parties will meet and confer on the issues.

Bellwether Discovery Responses:

- On April 1, 2024, Plaintiffs served responses to Defendants' Request for Admissions, Production Requests, and Interrogatories on the six Bellwether Plaintiffs. The parties continue to meet and confer on the adequacy of the responses.

Plaintiff Profile Forms:

- On June 11, 2024, Your Honor entered Defendants' Order to Show Cause why the cases listed in Exhibit A attached to the Order should not be dismissed with prejudice for their failure to provide Defendants with Plaintiff Profile Forms (ECF 32811). The Plaintiffs subject to the Order will have until July 2, 2024, to show cause why their case should not be dismissed with prejudice. Defendants will file a final dismissal order on July 16, 2024, dismissing any case subject to the Order which fails to show cause.
- With regard to PPF Reports, the parties agree that if a Plaintiff contends that Defendants have mistakenly placed a Plaintiff's case on the deficiency list, counsel for the Plaintiff will reach out directly to defense counsel to advise of that error with Defendants to correct the list as needed. The parties agree that Plaintiffs should confirm the accuracy of the MDL Centrality information and close the MDL Centrality account for a particular plaintiff when a case is dismissed. Defendants' deficiency list will be updated as corrections are received. The Plaintiffs should be reminded to check the lists each month for their cases and to promptly notify Defendants if they believe a case is listed in error, or if they have thereafter served the discovery. Defendants have agreed to promptly revise the list to remove cases included in error.

New Cases

- A complaint seeking certification of classes for medical monitoring and other relief was filed on June 17, 2024 (*Joni S. Bynum et al. V. LLT Management LLC, et al.*, Civil Action 3:24-cv-07065). Defendants have filed a tag-along notice regarding the *Bynum* action with the MDL and the JMPL, however, the matter is already before Judge Shipp.
- A class action complaint seeking to declare that certain transactions implemented in conjunction with LTL's bankruptcy filings were fraudulent was filed on May 22, 2024 (*Rebecca Love et al., v. LLT Management LLC, et al.*, Civil Action 3:24-cv-06320). On June 11, 2024 Plaintiffs filed a Motion for TRO and Order to Show Cause Why a Preliminary Injunction Should Not Issue (*Rebecca Love et al.*, Civil Action 3:24-cv-06320, Doc. 6). Defendants'

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Brief in Opposiiton to the TRO and Preliminary Injunction was filed on June 18, 2024 (Civil Action 3:24-cv-06320, Doc. 16). In response to Defendants' tag of *Love* to the MDL, the court stated that tagging is not necessary as the case is already assigned to Judge Shipp. On June 28, 2024, Judge Shipp issued a Memorandum Opinion and Order denying Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Civil Action 3:24-cv-06320, Doc. 31).

Status of New Jersey Proceedings Before Judge Porto:

- Depositions of Plaintiffs' case specific experts in the *Carl* and *Balderrama* matters were completed for Drs. Godleski, Wolf, and Cramer.
- Depositions of Defendants' case specific experts in the *Carl* and *Balderrama* matters were completed for Drs. Finan (*Carl & Balderrama*) and Nagarsheth (*Balderrama*). The deposition of Defendants' other case specific expert for *Carl and Balderrama*, Dr. Felix was competed on June 22-23, 2024.
- The depositions of general experts appearing in both the MDL and MCL are being coordinated in accordance with the state court's order.
- The parties filed post-trial briefs on the issue of disqualification on May 17, 2024 to Your Honor and Judge Porto; replies were filed on May 24, 2024.

Thank you for your consideration of these matters.

Respectfully submitted,

/s/ P. Leigh O'Dell

/s/ Michelle A. Parfitt

P. Leigh O'Dell

Michelle A. Parfitt

cc: Hon. Joel Schneider, U.S.M.J. (ret.) (via email)
Susan Sharko, Esq. (via email)
All Counsel (via ECF)